

Message Text

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SUBJECT: EXXON'S LA DISPUTADA PLANS LAYOFFS

REF: SANTIAGO 5562

1. IN AN UNPRECEDENTED MOVE THE EXXON OWNED COPPER MINE "LA DISPUTADA DE LAS CONDES" PLANS TO REQUEST PERMISSION FROM THE CHILEAN MINISTRIES OF LABOR AND ECONOMY TO LAYOFF RATHER THAN FIRE 420 WORKERS IDLED BY A JULY 21 AVALANCHE (REFTEL. THE AVALANCHE WHICH DESTROYED THE SAN FRANCISCO CONCENTRATION PLANT RESULTED IN THE CLOSING OF THE LOS BRONCES MINE, THE LARGEST IN THE LA DISPUTADA COMPLEX. THREE OTHER LOCATIONS, EMPLOYING OVER 1,000 WORKERS, REMAIN IN OPERATION.

2. ALTHOUGH NOT LEGALLY REQUIRED TO DO SO, THE COMPANY TOLD THE TWO UNIONS INVOLVED THAT IT WILL GIVE THE LAID-OFF WORKERS A SUBSIDY OF ONE-HALF THEIR TAKE HOME PAY OR A MINIMUM OF 4,000 PESOS (121 DOLLARS) A MONTH FOR THREE MONTHS WHILE THE COMPANY CONDUCTS A FEASIBILITY STUDY TO DETERMINE THE COSTS OF REBUILDING THE MINE AND CONCENTRATION PLANT. HOWEVER, DURING THIS TIME THE COMPANY COULD NOT PAY SOCIAL SECURITY AND RETIREMENT

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TAXES OR MEDICAL BENEFITS. BLUE COLLAR WORKERS WOULD CONTINUE TO BE PROTECTED UNDER THE CHILEAN SOCIAL SECURITY SYSTEM BUT LAID-OFF WHITE COLLAR WORKERS WOULD NOT. THE COMPANY ALSO OFFERED TO THOSE WORKERS WHO DECIDED TO TERMINATE THEIR CONTRACTS NOW AN ADDITIONAL 50 PERCENT OF THEIR LEGALLY REQUIRED SEVERANCE PAY.

3. THE LA DISPUTADA MINE HAD ALREADY USED THE "ACT OF GOD" CLAUSE IN CHILEAN LAW TO SUSPEND AND MODIFY OVER TWO HUNDRED PRIVATE SUPPLIER CONTRACTS. HOWEVER, ITS MAJOR CONCERN HAD BEEN THE SITUATION OF THE 770 WORKERS IMMEDIATELY AFFECTED BY THE AVALANCHE. THE COMPANY RELOCATED 350 TO OTHER LOCATIONS AND IS RE-QUESTIONING GOC AUTHORIZATION FOR THE 90 DAY SUSPENSION OF THE CONTRACTS FOR THE REMAINING 420. IF THE GOC REFUSES PERMISSION, LA DISPUTADA WILL BE FORCED TO FIRE THEM OUTRIGHT AS PERMITTED BY LAW. IF THE FEASIBILITY STUDY RECOMMENDS REBUILDING THE PLANT, THE COMPANY WILL REHIRE 100 WORKERS IMMEDIATELY TO HELP IN THE REBUILDING. ALL WORK SHOULD BE COMPLETED IN SEVEN MONTHS. THE REMAINING 320 WORKERS WOULD THEN BE REHIRED.

4. COMMENT: CHILEAN LAW DOES NOT PROVIDE SPECIFICALLY FOR LAYOFFS, THEREFORE THE EXXON LA DISPUTADA PLAN IS A PRECEDENT SETTING EVENT. HOWEVER, IN ORDER FOR THIS PLAN TO SUCCEED, THE GOC MUST DETERMINE THAT THE MONTHLY PAYMENTS TO LAID-OFF WORKERS WILL BE CONSIDERED A SUBSIDY AND NOT A SALARY FOR TAX PURPOSES. THIS DETERMINATION WILL PERMIT LA DISPUTADA TO AVOID PAYMENT OF THE 41 PERCENT SOCIAL SECURITY AND PENSION TAXES DURING THE FOUR TO TEN MONTHS THAT THESE WORKERS

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WILL BE SUSPENDED. ALTHOUGH THE EXXON OFFER IS ATTRACTIVE TO BOTH THE GOC AND THE UNIONS INVOLVED, THE GOC MAY NOT WISH TO ESTABLISH SUCH A LOOPHOLE IN ITS TAX LAWS AND THE UNIONS MAY NOT WISH TO DO WITHOUT MEDICAL AND PENSION RIGHTS WHILE ON TEMPORARY LAYOFF. HOWEVER, THE ALTERNATIVES ARE SERIOUS. IF EITHER THE UNIONS OR THE GOC BALKS LA DISPUTADA SAYS IT WILL BE FORCED TO FIRE THE 420 WORKERS OUTRIGHT AS THE LAW NOW PERMITS, AND WILL LAY THE BLAME DIRECTLY ON THE GOVERNMENT. LA DISPUTADA HAS ASKED THE GOC TO MAKE IT DECISION BY SEPTEMBER 1 SO THAT THE FEASIBILITY STUDY AND SUBSEQUENT REBUILDING CAN BE COMPLETED BEFORE MORE SNOW FALLS NEXT JULY. IN SPITE OF THE PROBLEM ABOUT PENSION BENEFITS, USING LAYOFFS RATHER THAN OUTRIGHT FIRINGS TO ADJUST A COMPANY'S WORK FORCE IS GOOD. IT MAY HELP IN THE DEVELOPMENT OF A STRONG SENIORITY SYSTEM. WE BELIEVE THAT THE PRECEDENT IS A GOOD ONE AND THAT THE GOC AND UNIONS WILL AGREE.

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